

REMARKS

Information Disclosure Statement

It is noted that an Information Disclosure Statement (IDS), including a PTO-1449 Form, and listing 9 documents, was submitted with the application upon entering the National phase on March 28, 2002. Since the PTO-1449 form was not returned with Office Action setting forth the restriction, it is respectfully requested that the Examiner place his or her initials in the appropriate area of the Form, thereby indicating his or her consideration of the documents, and return the initialed Form to Applicants. If the Examiner would like another copy of the IDS, the Examiner is requested to so notify the undersigned by telephone, and another copy will be promptly supplied.

The Pending Claims

Claims 1-15 remain pending, and claims 16-20 are added by this amendment.

Claims 2, 3, and 5 have been amended, and claims 16-20 have been added, to describe the invention more clearly. No new matter has been added, the basis for the amended claim language may be found within the original specification, claims and drawings.

THE OFFICE ACTION

Restriction Requirement

The Official Action mailed January 12, 2004 asserts there are seven distinct inventions (identified as Groups I - VII) claimed in the referenced application. The Official Action asserts that the groups are not so linked so as to form a single general inventive concept under PCT Rule 13.1.

ELECTION OF GROUP WITH TRAVERSE

In order to comply with the requirements of the Patent and Trademark Office, Applicants provisionally elect, *with traverse*, Group III (claim 8) drawn to a method for treating neurogenerative diseases using a plasminogen activator and an IL-2 inhibitor.

Claims 2, 3, and 5 have been amended to depend from claim 8, and newly added dependent claims 17-20 also depend from claim 8. Thus, it is believed claims 2, 3, 5, and 16-20 should also be included in Group III for examination purposes.

DISCUSSION

It is respectfully submitted that the restriction is improper, as the claims in each of the Groups relate to plasminogen activators. Thus, any search and consideration of the claimed subject matter of one Group will likely overlap and encompass that for the claimed subject matter of the other Groups. Accordingly, the searches for these two groups of claims cannot in any way be said to be completely "independent." This does not mean that the claims necessarily stand or fall together, but the overlapping nature of the searches remains and mitigates against a restriction requirement.

Examination of the patent application would be most expeditious by examining all pending claims together. As Section 803 of the MPEP requires,

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct and/or independent inventions.

The restriction requirement is improper because the Examiner has not shown that a search and examination of the entire application would, indeed, cause a *serious* burden, as required by Section 803 of the MPEP for proper restriction. In fact, a serious burden would arise only if examination of the patent application were restricted to one of the claim groups. Filing additional patent applications containing the non-elected claims would unnecessarily burden (1) the Patent and Trademark Office, since it must assume the additional labor involved in examining at least two separate applications; (2) the public, since it will have to analyze at least two patents (assuming the subject matter of each claim group is found patentable) to ascertain all of the claimed subject matter; and (3) the Applicants, since the Applicants must bear the substantial financial burden and delays associated with prosecution of multiple patent applications and the payment of maintenance fees for multiple patents.

While the inventions defined by the claims may be distinct and independent, there is no demonstration that the search and examination of all the pending claims would entail a serious burden to the Examiner. In particular, it is submitted that any additional burden on the Examiner in considering Groups I-VII together is not so serious as to require restriction, and therefore, Applicants respectfully request withdrawal of the restriction requirement.

In re Appln. of AKIRA et al.
Application No. 10/088,502

If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,



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Amendment or ROA - Regular (Revised 9/03/03)